

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1714 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? :

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MAHENDRA KHIMSHANKAR DAVE

Versus

DALWADI VIRJIBHAI BHIKHABHAI  
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Appearance:

MR BD KARIA for Petitioner

MR PRADEEP PATEL for Respondent No. 1, 2  
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CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 29/09/2000

ORAL JUDGEMENT

The present Civil Revision Application has been  
filed by the original plaintiff who filed Civil Suit  
No.75 of 1996 for declaration and injunction. It is the  
case of the plaintiff that he is an owner of the disputed

land which is the land at Survey No.1143 admeasuring 2 acres 35 gunthas and that the defendants are the heirs of one Dalwadi Bhikha Talshi. It is his case that since the defendants are obstructing his possession for which they have no right, the Court should issue necessary injunction as prayed for in the plaint. Along with the plaint the plaintiff had also given application exh.5 for interim injunction.

2 The aforesaid suit was resisted by the defendants on various grounds. It is their say that they have purchased the land in question from their distant uncle on 13.5.1967 by way of registered sale deed and since then they are in possession of said land. The learned Trial Judge by his order dated 19.8.1996 granted application for injunction exh.5 by which the defendants were restrained from entering into Survey No.1143 admeasuring 2 acres 35 gunthas situated in village Halvad.

3 The aforesaid order of the trial Court was challenged by the original defendants by way of filing Civil Misc. Appeal No.58 of 1996 in District Court, Surendranagar. The appellate Court allowed the appeal and vacated the injunction granted by the trial Court.

4 The aforesaid order of the appellate Court is challenged in this revision application at the instance of the original plaintiff. This revision application was admitted as back as on 17.1.1997. An order of status quo was also granted on 23.10.1996 at the time of admission of the aforesaid matter. The aforesaid order of status quo remained effective and operative in force till today. There is a serious title dispute between the parties and since the order of status quo is in force for considerable long period and as an interlocutory order is challenged and even prima facie for the purpose of deciding the revision application regarding possession it may seriously prejudice the rights of the parties. Keeping in mind these facts and considering the fact that since the date of filing of the suit i.e. since 1996 the order of interim injunction is in existence in favour of the plaintiff and so far as status quo order passed by this Court is concerned, the same is also effective and operative since January 1997, it is desirable that the main issue involved in the suit is required to be adjudicated one way or the other.

5 Under the circumstances, without adjudicating the dispute involved in this revision application, I direct

the learned Civil Judge (J.D.) at Halvad to dispose of the Regular Civil Suit No.75 of 1996 as early as possible preferably before by 30.04.2001. Till the aforesaid suit is disposed of, status quo which is prevailing as on today for suit property to be maintained by both the sides. This revision application is accordingly disposed of in the aforesaid terms. Order accordingly. Liberty to apply in case of difficulty.

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(mohd)